

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

DECISION AND ORDER  
11-CR-143

JOHN LUCHETTI,

Defendant.

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This case was referred to Magistrate Judge Hugh B. Scott for supervision of all pretrial proceedings. On December 9, 2011, Defendant John Luchetti filed a motion seeking, *inter alia*, suppression of statements he made to Homeland Security agents on March 10, 2011. An evidentiary hearing was held before Magistrate Judge Scott on March 1, 2012. The parties then had an opportunity to file post-hearing briefs.

On August 10, 2012, Magistrate Judge Scott issued a Report and Recommendation recommending that Defendant's motion to suppress the statements be denied. On August 27, 2012, Defendant submitted objections to the Magistrate Judge's Report and Recommendation. The Government filed a response to Defendant's objections on September 14, 2012 and Defendant Luchetti filed a reply on October 5, 2012. Oral argument was held before this Court on January 17, 2013.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo*

determination of those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review and after reviewing the submissions of the parties and hearing oral argument, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, Defendant's motion to suppress statements he made to Homeland Security agents on March 10, 2011 is denied in all respects. The parties shall appear before this Court on January 29, 2013 at 12:30 pm for a status conference and/or meeting to set trial date.

SO ORDERED.

*s/ Richard J. Arcara*

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HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: January 28, 2013